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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,900	10/07/2005	Ian Kinloch	HGF-001	1909
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GOODWIN PROCTER LLP PATENT ADMINISTRATOR 53 STATE STREET EXCHANGE PLACE BOSTON, MA 02109-2881				
EXAMINER				
HAILEY, PATRICIA L				
ART UNIT		PAPER NUMBER		
1793				
NOTIFICATION DATE		DELIVERY MODE		
03/24/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/534,900

Applicant(s)

KINLOCH ET AL.

Examiner

PATRICIA L. HAILEY

Art Unit

1793

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-6, 12-19, 21-34, 36, and 37.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/PATRICIA L. HAILEY/
Primary Examiner, Art Unit 1793

Continuation of 3. NOTE: The proposed cancellation of Claim 22 raises a new issue with Claim 23, which presently depends from Claim 22. Further, the proposed amendment to claim 1 does not overcome the rejections stated in the Final Rejection. Lastly, the text of claim 36, indicated as "Currently Amended", is the same as it appears in Applicants' amendment filed on September 5, 2008, and additionally contains the phrases "as claimed in any one of" and "the preceding claims"; these phrases were removed in Applicants' Preliminary Amendment filed on October 7, 2005.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' arguments have been considered, but are not persuasive. Applicants argue that the WO document neither discloses nor suggests the substrates recited in Claim 1 as proposed to be amended; the WO document, at page 8, line 26 to page 9, line 2, teaches alumina, carbon, and quartz (a form of silica) as exemplary supports, which are deemed equivalent to Applicants' "substrate particles", and further teaches iron, cobalt, nickel, molybdenum, and mixtures thereof as exemplary transition metal catalysts (considered equivalent to Applicants' "catalyst material"). Applicants' proposed incorporation of Claim 14 into Claim 1 does not prevent the WO document, Resasco et al., or Hwang et al. from reading upon Claim 1, as graphite, aluminium, or titanium is referred to in the alternative as exemplary substrate particles. Further, Someya et al. is relevant to these references regarding the production of aligned carbon nanotubes employing a substrate comprising silica, alumina or aluminum, said substrate coated with an element having no catalytic activity, and further having loaded on said coated substrate a metallic element having catalytic activity, said metallic element similar to, if not the same as, those disclosed in Resasco et al. and Hwang et al. Even if the substrate of Someya et al. is not in particulate form, this reference provides teaching that such a substrate is suitable for producing carbon nanotubes. The element having no catalytic activity corresponds to Applicants' "buffer layer" in Claim 17.

For these reasons, Applicants' arguments are not persuasive, and the Final Rejection is maintained.